

A. Section 42 Qualified Contract Provisions & Policies

When submitting information to the Indiana Housing and Community Development Authority concerning a Qualified Contract the following Section 42 Qualified Contract Provisions & Policies (“Policies”) must be addressed. As used herein, any capitalized term shall have the meaning as defined and set out in Section 42 of the Internal Revenue Code of 1986, as amended (“Code”) unless otherwise provided herein.

B. Notification letter with required information submitted to IHCD

The Owner of the Development requesting that the Indiana Housing and Community Development Authority (IHCD) find a Qualified Contract purchaser for the applicable Development must submit a notification letter (“Letter”) to IHCD’s Chief Real Estate Development Officer stating this interest. The Letter must be created using the IHCD template. The Letter must be accompanied by the following required information:

1. A signed copy of the document entitled “Qualified Contract Request Acknowledgements.”
2. A fully completed calculation of the Qualified Contract price, including completed Worksheets A – E and a detailed list of all assumptions utilized to calculate the Qualified Contract price. The assumptions used must be consistent with those included in these Policies. A certified public accountant, on behalf of the Development, must complete, review and approve the calculation.
3. A thorough narrative description of the Development, including a description of all amenities suitable for acquainting prospective purchasers with the Development.
4. A detailed set of color photographs (digital and hard copy) of the Development, including photographs of the interior and exterior of representative apartment units and buildings, and photographs of the Development grounds (no photocopies).
5. A description of all restrictions applicable to the Development and its operation.
6. A statement of Income and Expenses and Balance Sheets of the Development for the three (3) years prior to the submission of the Letter and a statement of income and expenses of the Development for the year to date of the submission of the Letter. The statements must fairly apprise a potential purchaser of the Development’s operating expenses, replacement reserves and escrows, debt service, gross receipts, net cash flow and debt service coverage ratio. A summary of existing debt including original loan balance, current loan balance, interest rate, name and contact information for lender, monthly principle and interest payments, amortization period, prepayment provisions and copies of existing mortgage and note.

7. A current and certified rent roll.
8. Occupancy history for the three (3) years prior to the submission of the Letter.
9. Any third party environmental reports, correspondence from governmental entities, and copies of any contracts that cannot be extinguished upon the sale of the Development.
10. A property condition report and property needs assessment.
11. Copies of the leases for the leased portions of the land or improvements.
12. A Qualified Contract processing fee equivalent to twenty-five dollars (\$25) per LIHTC unit.

The Letter and required information must be submitted before IHCD will begin the Qualified Contract process. IHCD will have one (1) year from the receipt of the Letter and required information to find a qualified purchaser for the Development, unless the owner agrees to a longer time period. All buildings within the Development must qualify before IHCD will accept a Qualified Contract provision request. A Development may make only one (1) request for a Qualified Contract purchaser. IHCD and its agents retain the right to request additional information as needed.

C. Certified Public Accountant Review

To help assess the credibility of the assumptions used in calculating the Qualified Contract price, the IHCD will contract with a reputable independent certified public accountant to review the Qualified Contract price calculated by the Development's certified public accountant. The Development will be notified of any adjustments in the Qualified Contract price suggested or required following the IHCD review.

D. Property listed with multi-family broker

IHCD will contract with a reputable multi-family housing broker to review, appraise, list and market all Section 42 properties that have requested to utilize the Qualified Contract provisions and submitted all required information. In addition, if the property is determined to be feasible and practical for listing the Development must agree to list the property with the multi-family housing broker selected by IHCD. The listing price of the property will be the calculated Qualified Contract price. The final sales price will be the amount agreed upon by the parties. Properties that do not close after a purchaser has been found who will pay the calculated Qualified Contract price will be considered by IHCD to have forfeited their right to utilize the Qualified Contract provisions of Section 42 for that Development. If a property is determined not to be feasible or practical for listing by the multi-family broker the property will be released from its extended use commitment.

E. Fees and cost

IHCDA has established a Qualified Contract processing submittal fee of twenty-five dollars (\$25) per unit. This fee includes the costs of an IHCDA certified public accountant review and the initial multi-family broker review to determine feasibility of sale. This fee must be paid upfront when the Letter and supporting documentation are submitted to IHCDA.

In addition, property owners requesting a Qualified Contract agree to pay costs incurred for submitting the required information and all commissions and fees owed to the multi-family housing broker for listing properties including the cost of a third party appraisal. If a property is determined to be feasible for listing the owner will be required to submit the additional administration and marketing fees and appraisal cost to IHCDA. The fee structure for the multi-family housing broker is as follows:

1. Administrative and marketing fees:

- a. \$5,000.00 for a property with a value less than or equal to \$250,000.00.
- b. \$10,000.00 for a property with a total value in excess of \$250,000.00.

The fee provided for herein is intended as compensation and reimbursement for Broker's time and costs incurred in the marketing of the subject property. This fee is in addition to reimbursement for MIA appraisal services which multi-family broker has incurred with regard to the subject property.

2. Sales Commissions

At closing of the sale of a subject property, a brokerage commission, based upon the gross sales price of the property as follows:

Gross Sales Price	Broker's Commission
Under \$500,000.00	7% of GSP but not less than \$10,000.00
\$500,000.00 - \$2,000,000.00	6% of GSP
\$2,000,001.00 - \$4,000,000.00	5% of GSP
\$4,000,001.00 - \$7,000,000.00	4% of GSP
Over \$7,000,000.00	3% of GSP

The brokerage commission payable hereunder shall be reduced by the amount of the administrative and marketing fee previously paid to broker in regard to the subject property.



F. Qualified Contract Price Calculation and Assumptions

All calculations must follow the Code. All assumptions utilized must be, in the sole and absolute discretion of the IHCD, reasonable and customary. The following assumptions must be used when calculating the Qualified Contract Price using Worksheets A through E.

Worksheet B – Adjusted Investor Equity: May be included only if included in adjusted basis of the Development and required by the partnership agreement.

Worksheet D – Cash Distributions: For the purpose of these calculations, cash distributions include: Developer fees, Construction or Contractor fees, Asset manager fees, and any refinance proceeds from the inception through the initial 15-years of participation in the Section 42 Programs.

G. No Warranty

Property owner agrees that the actions, determinations, decisions, or other rulings made by the IHCD pursuant to this policy shall not be construed to be a representation or warranty by the IHCD as to a Development's compliance with applicable legal requirements, the feasibility or viability of any Development, or any other matter. No action of the IHCD shall be relied upon by any person as a representation or warranty by the IHCD in connection therewith.

IHCD reserves the right to resolve all conflicts, inconsistencies or ambiguities in these Policies, including those which may rise in administering, operating or managing the Qualified Contract Policies. The IHCD in its sole discretion reserves the right to, and from time to time may, amend these Policies pursuant to the Code.

H. Exemption Request to Serve Qualified Tenants for the Longest Period

Owners that have waived their right to apply for a Qualified Contract at the end of the fifteen year compliance period and committed to the "Serve Qualified Tenants for the Longest Period" may request an exemption from that commitment. Owners that received points for that commitment in their original tax credit application may be eligible to request a Qualified Contract if granted an exemption from the original commitment.

In order to be considered for an exemption, properties must be in good standing with the IHCD. A property with outstanding noncompliance issues or unpaid fees is not eligible to request an exemption. In addition, the Owner must submit documentation to IHCD to demonstrate at least one of the following criteria:

1. The economic viability of the property is poor and cannot be maintained throughout the extended use period through its current rental structure; or
2. Current rents are approximately the same as local Fair Market Rents for units of similar size and structure and will remain similar for the foreseeable future; or



3. There is a low measurable impact to the affordable housing market in the area by removing the property from the program, as evidenced by a third-party market study.

Any Owner that received points for an extended commitment in the original tax credit application and wishes to be considered for a Qualified Contract will be required to pay an exemption fee equal to the remaining amount of Owner Certification fees in the Extended Use Period. For example, if there are ten (10) years remaining in the Extended Use Period on a project that contains forty (40) units and the compliance fee for each unit is twenty-three (23) dollars per year, the fee to request an exemption would be \$9200 (10 years x 40 units x \$23 per unit).

If the exemption is approved the Owner may then follow the policy to request a Qualified Contract as described in Schedule I, Sections A-G. If the exemption is denied, IHCD will retain \$1500 of the exemption fee and resubmit the remaining amount back to the Owner. The Owner must wait at least one (1) year prior to resubmitting a request for exemption.

Prior to submitting a request for exemption, IHCD encourages the Owner to contact IHCD regarding the current market rates in the primary market area and their potential impact on the existing affordable units in question.